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November 5, 2001

VIA ELECTRONIC DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Notice of Ex Parte Presentation:  
CMRS Carriers Access to Unbundled Network Elements

Dear Ms. Salas:

On November 2, 2001 Mr. Carl Hansen of Hansen Communications Consulting and undersigned counsel, on behalf of VoiceStream Wireless Corporation ("VoiceStream"), met with Commission Staff to discuss the issue of CMRS carrier access to Unbundled Network Elements (including special access). The Common Carrier Bureau Staff participating in the meeting were Michele Carey, Julie Veach, Jeremy Miller, and Stacy Jordan. The Wireless Telecommunications Bureau Staff participating in the meeting were Thomas Navin and Gregory Vadas. A copy of materials VoiceStream provided to Staff at the meeting is attached hereto.

Pursuant to 47 C.F.R. § 1.1206(b)(2), a copy of this letter is being filed electronically with the Office of the Secretary. We also are providing copies to Commission Staff who participated in the meeting.

Respectfully submitted,

/s/

Douglas G. Bonner  
Counsel to VoiceStream Wireless Corporation

Enclosure

cc: Commission Staff (via facsimile)  
Robert A. Calaff, Esq. (mail)  
Mr. Carl Hansen (mail)

**CMRS CARRIER ACCESS TO UNES  
VOICESTREAM WIRELESS CORPORATION**

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
November 2, 2001**

- VoiceStream has reviewed and concurs with the materials AT&T Wireless (“AWS”) is presenting to the FCC today.
- To supplement AWS’ outline, VoiceStream adds the following information:
  - With respect to Chairman Powell’s observation that facilities-based platforms, such as wireless networks, offer “real competitive choices” and represent “the best hope for competition for residential consumers,” VoiceStream indicated (in June 11, 2001 Comments filed in response to the Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport, DA 01-911 (“Joint Petition Comments”)) that nearly 78% of VoiceStream’s sites are in suburban or rural areas. CMRS carriers will increasingly provide competitive alternatives to ILEC service over time, as CMRS carriers traditionally build outward from urban to suburban, and from suburban to rural areas.
  - With respect to the CMRS carriers’ dependence on ILECs for transport facilities, VoiceStream and Nextel noted in their Joint Petition Comments that they obtained, respectively, 96% 85% of their high capacity circuits from ILEC tariffs.
  - With respect to ILEC acknowledgement of CMRS carriers’ entitlement to convert special access facilities to UNEs, VoiceStream provides correspondence between BellSouth and VoiceStream regarding a June 5, 2001, teleconference between BellSouth and LeBoeuf, Lamb, Greene & MacRae (on behalf of VoiceStream):
    - During the conversation, BellSouth agreed to identify tariff circuits it provides VoiceStream that do not connect to SONET rings.
    - BellSouth agreed that those facilities would be eligible for conversion to UNEs.
    - BellSouth later indicated that, although a wireless carrier may purchase UNEs, it cannot purchase them to provide “wireless service.”
    - BellSouth refuses either to convert any existing facilities to UNEs or provide any new circuits as UNEs.

**Prepared by LeBoeuf, Lamb, Greene & MacRae, LLP**

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July 19, 2001

**VIA FACSIMILE (404) 614-4054 AND U.S. MAIL**

Leah G. Cooper, Esq.  
BellSouth Telecommunications, Inc.  
Legal Department – Suite 4300  
675 West Peachtree Street, NE  
Atlanta, GA 30375-0001

Re: Conversion of Special Access Facilities to Unbundled Network Elements

Dear Leah:

On behalf of VoiceStream Wireless Corporation (“VoiceStream”), I am writing to follow-up on the action items agreed to during our June 5, 2001 teleconference. At that time, you indicated that BellSouth would identify those tariffed circuits it provides VoiceStream that do not connect to SONET rings. You also confirmed that those facilities would be eligible for conversion to UNE pricing. Mr. Cris Wilcox, BellSouth’s Regional Assistant Manager for VoiceStream, stated that he would provide us with this inventory of circuits available for conversion to UNEs within one week following the call. We have not, to date, received that list of circuits, as promised.

On July 16, 2001, we received your July 11, 2001 letter indicating that it is now BellSouth’s position that it has no obligation to convert any special access circuits to UNEs. For many reasons, VoiceStream disagrees with your interpretation of the Commission’s rules and orders addressing BellSouth’s obligation to provision UNEs to wireless carriers. The FCC is reviewing this issue now, and we hope it will clarify ILEC unbundling obligations to do justice to 47 U.S.C. § 251(c)(3) and its prior orders in which it has stated that CMRS carriers are entitled to unbundled access to ILEC network elements. However, if and when the Commission determines that *any* network facilities that BellSouth provides VoiceStream are available on an unbundled basis, we will expect BellSouth to issue appropriate credits to VoiceStream for *all* eligible facilities to reflect UNE terms and prices, effective April 3, 2001 (the original conversion request date). Similarly, for new special access circuits that VoiceStream may order in the future that

Leah G. Cooper, Esq.  
July 19, 2001  
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the Commission later determines should have been provided as UNEs, we expect BellSouth to offer to waive any and all early disconnection fees or other costs associated with the provision of the facilities pursuant to its tariff and bill VoiceStream for them as if they had been originally provisioned as UNEs.

Sincerely,

Douglas G. Bonner  
Elizabeth Dickerson

Counsel for VoiceStream Wireless  
Corporation

cc: Bob Calaff  
Carl Hansen  
Chris Sykes